

Town of Amherst
Zoning Board of Appeals

2015 JUN 24 PM 2:56

SPECIAL PERMIT AMHERST TOWN CLERK

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2015-00037, to allow the pre-existing non-conforming garage to be structural altered and enlarged (increased in height), under Section 9.22 of the Zoning Bylaw, at 809 South East Street (Map 20B, Parcel 13, R-O Zoning District), with the following conditions:

1. The structural changes and alterations to the garage shall be built substantially in accordance with the following plans:
 - a. Elevations prepared by Nina Weyl, Architect, dated April 24, 2015
 - b. Survey prepared by Holmberg & Howe, Inc., dated March 13, 2-15
 - c. Scope of Work description, prepared by Jason Casagrande
2. The project shall be completed by November 30, 2015.

Mark Parent (10)

Mark Parent, Acting Chair
Amherst Zoning Board of Appeals

June 24, 2015
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Ann Kieser, 809 South East Street, Amherst, MA 01002

Date application filed with the Town Clerk: May 22, 2015

Nature of request: For a Special Permit to structurally alter and enlarge a pre-existing non-conforming garage (as to setbacks) and increase the height by changing from a flat roof to a gabled roof, under Section 9.22 of the Zoning Bylaw

Address: 809 South East Street (Map 20B, Parcel 13, R-O Zoning District)

Legal notice: Published on May 13, 2015 and May 20, 2015 in the Daily Hampshire Gazette and sent to abutters on May 13, 2015

Board members: Mark Parent, Tom Ehrgood, Keith Langsdale

Staff members: Jeff Bagg, Senior Planner; Rob Morra, Building Commissioner

Submissions:

- Application form filed with the Town Clerk on May 22, 2015
- Scope of Work, prepared by Jason Casagrande
- Roof construction detail
- Town GIS context map
- Three existing conditions photographs
- Elevations prepared by Nina Weyl Architect, dated April 24, 2015
- Existing conditions survey, prepared by Holberg & Howe, Inc. dated March 13, 2015

Site Visit: May 26, 2015

Mark Parent met the applicant, Ann Kieser onsite (Keith Langsdale viewed the site separately). The following was observed:

- The location of the existing single family dwelling and garage on the west side of South East Street.
- The approximate location of the north property line.
- The property to the south with a similar configuration with a single family house and garage close to the north property line.

Public Hearing: May 28, 2015

The applicant, Ann Kieser, described the application as follows:

- The proposal is to change the existing roof on the garage from a flat roof to a gabled roof. This change is part of a larger project to renovate an existing porch. The building permit for the porch was issued, but this change was required to obtain a Special Permit.

- As shown on the survey, the existing garage is non-conforming to the side yard setback. At the northeast corner, the wall of the garage is 7.8 feet and the eave is 7.3 feet. At the northwest corner, the wall of the garage is 7.7 feet and the eave is 7.0 feet.
- As shown on the architect's plans, the height of the existing flat roof is 8 feet 9 inches. The proposed gable roof height will be increased to 12 feet 3 inches.

The Board discussed the setbacks. It was determined that in the R-O Zoning District the setback requirement is 15 feet. The setback for buildings is measured to the wall of the structure pursuant to Section 6.130. However, the Board identified that based on the proposed elevations the eave was 12 inches which is larger than the existing eave.

Findings:

The Board finds under Section 9.22, the following:

9.22 - The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. The Board found that the proposal is not substantially more detrimental to the neighborhood for the following reasons:

- The additional size of the eave is minor and acceptable given that the Bylaw defines that a setback be measure to a wall and excludes eaves.
- The increase in height is nominal and is the result of the creation of a very common gabled roof on the existing one story garage.
- The construction of the gabled roof will provide an aesthetic improvement over the existing flat roof and is compatible and consistent with the gabled roof of the house.

Specific Findings:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District. The Board found that the proposal increase the height of the existing garage (through the change from a flat roof to a gabled roof) is suitably located and compatible with the neighborhood. The use as a single family dwelling and garage is the primary use in the neighborhood.

10.382, 10.383 & 10.385 - The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features. The Board found that the construction of the gabled roof will provide an aesthetic improvement over the existing flat roof as it will match the gabled roof of the house.

10.395 - The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto. The Board found that the aesthetics of the house and garage will be enhanced and that the increase in height within the setback is minor and found to not be detrimental to the neighborhood.

10.398 - The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The proposal allows the owner to alter an existing garage through the replacement of a flat roof with a gabled roof. The increased in height is nominal and the use of the house and garage are in keeping with similar configurations on the adjacent properties.

Zoning Board Decision

Mr. Langsdale MOVED to approve the application with conditions. Mr. Ehrgood seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2015-00037, to allow the pre-existing non-conforming garage to be structural altered and enlarged (increased in height), under Section 9.22 of the Zoning Bylaw, at 809 South East Street (Map 20B, Parcel 13, R-O Zoning District), with conditions.

Mark Parent
MARK PARENT

(Js)

Tom Ehrgood
TOM EHrgOOD

(Js)

Keith Langsdale
KEITH LANGSDALE

(Js)

FILED THIS 24th day of June, 2015 at 2:57 p.m.
in the office of the Amherst Town Clerk Sandra J. Burger
TWENTY-DAY APPEAL period expires, July 14, 2015, 2015.
NOTICE OF DECISION mailed this 25 day of June, 2015
to the attached list of addresses by Jeffrey P. Bagg, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2015.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2015,
in the Hampshire County Registry of Deeds

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Ann Kieser
Address 809 South East Street
City or Town Amherst, MA 01002

Identify Land Affected: 809 South East Street
(Map 20B, Parcel 13, R-O Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

809 South East Street Amherst
Street City or Town
The record of title standing in the name of
Ann Kieser
Name of Owner
Whose address is 809 South East St. Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 4484 Page 130
or

Hampshire Registry District of the Land Court, Certificate No. _____
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2015-00037
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Mark Parent Chairman
(Board of Appeals)
Tom Ehrgood Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____
Register of Deeds
Notice to be recorded by Land Owner

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Ann Kieser

For a Special Permit to structurally alter and enlarge a pre-existing non-conforming garage (as to setbacks) and increase the height by changing from a flat roof to a gabled roof, under Section 9.22 of the Zoning Bylaw

On the premises of 809 South East Street
At or on Map 20B, Parcel 13, R-O Zoning District

NOTICE of hearing as follows mailed (date) May 13, 2015
to attached list of addresses and published in the Daily Hampshire Gazette
dated May 13, 2015 and May 20, 2015

Hearing date and place May 28, 2015 (Town Hall)

LEGAL NOTICE

The Amherst Zoning Board of Appeals will meet on **Thursday, May 28, 2015**, at 6:30 P.M. in the First Floor Meeting Room, Town Hall, to conduct the following business:

PUBLIC HEARING:
ZBA FY2015-00033 - Julia Frankel - For a Special Permit to formalize an existing second dwelling unit through the creation of a non-owner occupied Converted Dwelling, under Section 3.3241 of the Zoning Bylaw, at 94 Flat Hills Road (Map 9A, Parcel 33, R-O Zoning District)
ZBA FY2015-00037 - Ann Kieser - For a Special Permit to structurally alter and enlarge a pre-existing non-conforming garage (as to setbacks) and increase its height by changing the from a flat roof to gabled roof, under Section 9.22 of the Zoning Bylaw, at 908 South East Street (Map 20B, Parcel 13, R-O Zoning District)
ZBA FY2015-00038 - Bistro 63 Monkey Bar, LLC - For a Special Permit to operate a Class II restaurant with accessory live and prerecorded music, under Section 3.352.1 and 5.042 of the Zoning Bylaw, pursuant to the expiration of ZBA FY2014-00033, at 63-67 North Pleasant Street (Map 14A, Parcel 322, B-G Zoning District)

**ERIC BEAL, CHAIR
AMHERST ZONING BOARD
OF APPEALS**

May 13, 2015

3328177

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2015-00037, to allow the pre-existing non-nonforming garage to be structural altered and enlarged (increased in height), under Section 9.22 of the Zoning Bylaw, at 809 South East Street (Map 20B, Parcel 13, R-O Zoning District), with conditions.

Mark Parent - Yes Eric Beal - Yes Tom Ehrgood - Yes

DECISION: APPROVED with conditions

Town of Amherst Abutter List

<u>Parcel ID</u>	<u>Parcel Address</u>	<u>Owner1</u>	<u>Owner2</u>	<u>Address</u>	<u>City/Zip</u>
20B-80	EVENINGSTAR DR	PERRY, SHAUL		84 POTWINE LN	AMHERST, MA 01002
20B-64	SOUTH EAST ST	COLSON, HEATHER L	C/O H L COLSON ROCK N ROW	113 NUBANUSIT RD	NELSON, NH 03475
20B-70	SOUTH EAST ST	COLSON, HEATHER L	C/O H L COLSON ROCK N ROW	113 NUBANUSIT RD	NELSON, NH 03475
20B-31	783 SOUTH EAST ST	MENTOS, CAROL		783 SOUTH EAST ST	AMHERST, MA 01002
20B-69	784 SOUTH EAST ST	COLSON, HEATHER	C/O H L COLSON ROCK N ROW	113 NUBANUSIT RD	NELSON, NH 03475
20B-30	791 SOUTH EAST ST	CARNEY, ANDREW G & MARGARET F		791 SOUTH EAST ST	AMHERST, MA 01002
20B-11	797 SOUTH EAST ST	ZIMMERMAN, JOHN F & CATHERINE		797 SOUTH EAST ST	AMHERST, MA 01002
20B-12	803 SOUTH EAST ST	YOUNG, JAMES E		803 SOUTH EAST ST	AMHERST, MA 01002
20B-13	809 SOUTH EAST ST	KIESER, ANN L		809 SOUTH EAST ST	AMHERST, MA 01002
20B-14	815 SOUTH EAST ST	LEE, JEFFREY C		815 SOUTH EAST ST	AMHERST, MA 01002
20B-65	820 SOUTH EAST ST	WHITMORE, LISA H TRUSTEE		820 SOUTH EAST ST	Amherst, MA 01002
20B-15	823 SOUTH EAST ST	WOJTIWICZ, LOUISE LIFE ESTATE	WOJTIWICZ, RICHARD	823 SOUTH EAST ST	AMHERST, MA 01002
20B-24	826 SOUTH EAST ST	REGE, MADHUKAR A & GLADYS C		826 SOUTH EAST ST	AMHERST, MA 01002
20B-16	831 SOUTH EAST ST	BOYD, CHRISTOPHER & ROXANNE		P.O. BOX 2878	AMHERST, MA 01004-2878

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
20B-66	838 SOUTH EAST ST	MORRISSEY, WILLIAM	RECKENDORF, KATHLEEN	P.O. BOX 2454	AMHERST, MA 01004
20B-81	851 SOUTH EAST ST	SHELBURNE, BRIAN P & ERIKA		851 SOUTH EAST ST	AMHERST, MA 01002
20B-39	22 VALLEY VIEW DR	REGE COLT, NICHOLAS B & MAYA V		22 VALLEY VIEW DR	AMHERST, MA 01002
20B-40	36 VALLEY VIEW DR	ALDRICH, MICHAEL R	ALDRICH, ELAINE C	36 VALLEY VIEW DR	AMHERST, MA 01002
20B-41	40 VALLEY VIEW DR	THEILMAN, WARD & MARYLOU E TRUSTEES		40 VALLEY VIEW DR	Amherst, MA 01002